

Section 401 Water Quality Certification

The Section 401 Water Quality Certification is a state's review of applications for Section 404 U.S. Army Corps of Engineer's permits for compliance with water quality standards. Any person dredging, excavating, or filling within waters of the United States (i.e. - needs a Corps Section 404 Permit) may need a Section 401 Water Quality Certification. The Indiana Department of Environmental Management (IDEM) is responsible for the Section 401 Water Quality Certificates review process in Indiana.

GENERAL PERMITS

General Permit 14 requires no notification of the U.S. Army Corps of Engineers prior to the commencement of the authorized activity. Likewise, no IDEM Section 401 Water Quality Certificate is waived. The current General Permit 14 expires on February 3, 1998. INDOT will seek a renewal of this permit at this time.

INDIVIDUAL SECTION 404 PERMITS

Individual permits cover all types of activities which require a Corps of Engineers Section 404 Permit and which are not covered by nationwide or regional general permits. For Individual U.S. Army Corps of Engineers Section 404 Permits, the Corps of Engineers will place the application of the Section 404 Permit available for a public notice and IDEM. IDEM uses the 30 day public notice as an application for the Section 401 Water Quality Certificate. If IDEM grants or waives Section 401 Water Quality Certification, then the Corps of Engineers can grant or deny the individual Section 404 Permit depending on the results of their own review of the project. If IDEM denies the Section 401 Water Quality Certification for a project, then the U.S. Army Corps of Engineers will deny the individual Section 404 Permit. In Indiana, Section 401 Water Quality Certification is required for all individual and selected Nationwide Section 404 Permits.

NATIONWIDE SECTION 404 PERMITS

Army Corps of Engineers Section 404 Nationwide Permits are designed to expedite the processing of projects which, individually and cumulatively, have little or no adverse effect on the environment. IDEM has denied Section 401 Water Quality Certification for certain Nationwide Permits, thereby removing the automatic Section 404 approval and subjecting these activities to Section 401 review. These types of projects require the application of a Section 401 Water Quality Certificate for certain Section 404 Nationwide Permits prior to initiating construction. The Section 404 Nationwide Permits that might involve INDOT projects include the following:

- 14 Road Crossings
- 15 U.S. Coast Guard Approved Bridges

- 18 Minor Discharges - specific streams only (designated salmonid waters, designated outstanding state resource waters, designated exceptional use streams - see attached list)
- 19 Minor Dredging - specific streams only (see attached list)
- 23 Approved Categorical Exclusions
- 26 Headwaters and Isolated Waters Discharges

Persons wishing to conduct work under any of the above nationwide permits must obtain a site specific Section 401 Water Quality Certification. Apply to the U.S. Army Corps of Engineers for a Permit. For Nationwide Permits that require Section 401 Water Quality Certification, the Corps will instruct INDOT to obtain one. The Section 404 Nationwide Permit is not valid until a site specific Section 401 Water Quality Certification is obtained for these projects. From the date INDOT notifies the U.S. Army Corps of Engineers that they have applied for a Section 401 Water Quality Certification, IDEM has 60 days to issue a decision.

If IDEM **does not issue a decision**, the Corps of Engineers presumes a **waiver**. INDOT can proceed with the project.

If IDEM **grants** Section 401 Water Quality Certification, INDOT can then proceed with the project subject to all conditions of the certification.

If IDEM **denies** Section 401 Water Quality Certification, INDOT cannot proceed with the project. INDOT's choice then is to appeal the denial or modify the project enough to bring it into compliance with the water pollution control laws.

Applications for Section 401 Water Quality Certification must include the following information:

1. A cover letter specifically requesting Section 401 Water Quality Certification for the project.
2. A narrative description of the project including:
 - reason for the project
 - amount of area to be filled in acres or square feet
 - amount of fill in cubic yards
 - type of fill, e.g., earthen material, concrete, asphalt, etc.
3. A narrative description of the project site which shall include:
 - type of wetland (if applicable)
 - description of vegetation
 - description of type of waterbody
4. A map showing where the project is located.
5. Cross-section and overhead drawings.
6. Photographs of the project site with a drawing indicating where the photographs were taken on the project site.
7. Copies of any correspondence received from the U.S. Army Corps of Engineers, Indiana Department of Natural Resources, or U.S. Fish and Wildlife Service.
8. Address and daytime phone numbers.
9. **ALL INFORMATION MUST BE SUBMITTED ON 8 ½" BY 11" PAPER.**

10. Photographs and other submitted material cannot be returned.
11. Address applications to :
 - Nationwide Permit Request
 - Section 401 Water Quality Certification Program
 - Office of Water Management
 - Indiana Department of Environmental Management
 - P.O. Box 6015
 - Indianapolis, Indiana 46206-6015

All Section 401 Water Quality Certifications will include conditions. These conditions will be listed on the Certification. These conditions have the force of law. They must be understood and complied with. They are currently being included in the letting package, and also should be available at the construction site at all times. It is the project engineer's responsibility to be familiar with these conditions, and comply with them at all times. If there are conditions that you cannot feasibly comply with, contact the Division of Operations Support for assistance. Do not ignore any conditions. **Remember, if you have one permit for an activity, you are not exempted from obtaining all other required permits for the same work. Make sure you have obtained all other required permits for the same work.**

APPENDIX 1

Designated Salmonid Waters

1. Trail Creek and tributaries upstream of U.S. 35.
2. East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Ditch.
3. Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan.
4. Salt Creek above its confluence with the Little Calumet River.
5. Galena River and its tributaries in LaPorte County.
6. The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan State Line.

Streams which have been designated all or partially as Outstanding State Resource Waters

1. The Blue River in Washington, Crawford, and Harrison Counties.
2. Cedar Creek in Allen and DeKalb Counties.
3. The North Fork of Wildcat Creek in Carroll and Tippecanoe Counties.
4. The South Fork of Wildcat Creek in Tippecanoe Counties.
5. The Indiana portion of Lake Michigan.
6. All waters incorporated in the Indiana Dunes National Lakeshore.

Streams which have been designated all or partially as Exceptional Use Streams

1. Big Pine Creek in Warren County.
2. Mud Pine Creek in Warren County.
3. Fall Creek in Warren County.
4. Indian Creek in Montgomery County.
5. Clifty Creek in Montgomery County.
6. Bear Creek in Fountain County.
7. Rattlesnake Creek in Fountain County.
8. The small tributary to Bear Creek in Fountain County within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch.
9. Blue River from the confluence of the West Middle Forks of the Blue River in Washington County.
10. The South Fork of the Blue River in Washington County.
11. Lost River and all surface and underground tributaries upstream from the Orangeville Rise (T2N, R1W, Section 6) and the Rise of Lost River (T2N, R1W, Section 7) and the mainstream of the Lost River from the Orangeville Rise downstream to its confluence with the East Fork of White River.